

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI**

H&R BLOCK, INC. and HRB
INNOVATIONS, INC.,

Plaintiffs,

v.

BLOCK, INC.,

Defendant.

Case No. 4:21-cv-00913-NKL

**SUR-REBUTTAL DECLARATION OF OWEN JENNINGS
IN FURTHER SUPPORT OF BLOCK, INC.'S OPPOSITION
TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

I, Owen Jennings, declare and state as follows:

1. I am the Head of Product and Business for Cash App. I am also President of Cash App Taxes, Inc. On January 12, 2022, I submitted a declaration in support of Block, Inc.'s Opposition To Plaintiffs' Motion for Preliminary Injunction on behalf of Block, Inc. ("Block" or the "Company").

2. I have reviewed relevant portions of Plaintiffs' reply materials, including various rebuttal declarations and exhibits. I submit this sur-rebuttal declaration in further support of Block's Opposition to Plaintiffs' Motion for Preliminary Injunction.

3. I have personal knowledge of the matters set forth herein (except as otherwise stated) and if called as a witness, I could and would testify competently thereto.

Cash App's Leading Features

4. I understand that H&R Block is claiming to be a major and direct competitor of the Cash App mobile application. I disagree. Unlike H&R Block, Cash App has always been predominantly a peer-to-peer money movement app, and that is the primary way we serve our customers. As I referenced in my prior declaration, Cash App's most popular feature—by far—is its peer-to-peer money transfer service, which allows users to send and receive money to their friends, family and contacts for free. This is the primary reason that the vast majority of customers download, sign up for, and use Cash App. And the majority of Cash App transactions are peer-to-peer money transfers. Furthermore, nearly *all* of Cash App's approximately 40 million monthly active customers use Cash App to make peer-to-peer money transfers on a regular basis.

5. The vast majority of Cash App customers are individuals. Not businesses.

Cash App Download Data

6. Millions of people download the Cash App mobile application each month. The Cash App mobile application can be downloaded from the Google Play Store (for Android device users) and from the Apple App Store (for iPhone users).

7. In order to understand our user base, the Cash App marketing team tracks how consumers go about finding and downloading the mobile app. One of the ways we do so is by tracking what search terms a consumer inputs into the Google Play Store that result in the consumer actually downloading the Cash App mobile app. I am familiar with this data and checked it in connection with preparing this declaration.

8. By far, the top search term individuals use when searching for Cash App is "Cash App" and variants or misspellings of that term, such as "cashapp," "cash," "caah app," "cadh

app,” “cahs app,” and “chash app.” Searches on these “Cash App” terms accounted for at least 91% of Cash App downloads that came from search in the Google Play Store from December 1, 2021 (the date the name change to Block was announced) to January 30, 2022.

9. I also checked to see whether any consumers who downloaded Cash App using search terms had located the app by searching for the words “Block” or “H&R Block.” The results of this analysis showed that for the period from December 1, 2021 (the date the name change to Block was announced) to January 30, 2022, the terms “Block” and “H&R Block” did not appear anywhere amongst the top 500 search keywords users searched to download Cash App. These top 500 keywords account for 97.6% of all the searches that led to Cash App downloads in that time period. This means that all other search terms combined accounted for less than 2.5% of the searches resulting in downloads of the Cash App mobile application.

10. I also checked for search terms related to Square, and found a total of 531 downloads of Cash App after searching for the terms “Square” or “Square App” between November 1 and November 30, 2021 (the last full month before Square announced the corporate name change to Block), out of a total of 1,573,481 downloads during this time period. This is equivalent to just 0.03% (three one-hundredths of one percent) of all Cash App downloads for this period.

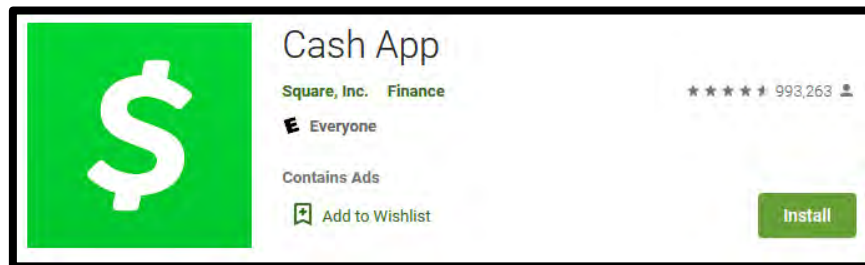
11. I also checked for search terms related to Cash App’s former product name, “Square Cash.” As stated in my prior declaration, Cash App’s name was “Square Cash” until 2017. I found three such search terms: “square cash,” “square cash app,” and “square cash app for android.” Searches for these terms in the period between November 1 and November 30, 2021 (the last full month before the corporate name change to Block) resulted in 371 downloads,

or just 0.02% (two one-hundredths of one percent) of all Cash App downloads using search terms for this period.

12. Unlike the Google Play Store, the Apple App Store does not release data on which search terms led to user downloads. However, based on my experience and knowledge of these channels, it is my understanding that Google Play Store search results serve as a very accurate proxy for Apple App Store search results. I have no reason to believe that iPhone users use materially different search terms than Android users.

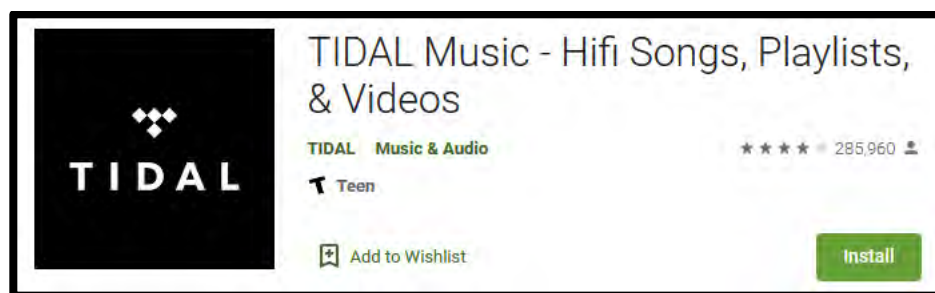
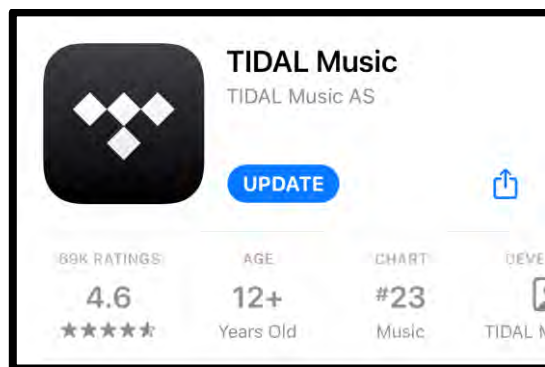
Cash App Developer Name Listing

13. The developer name for the Cash App mobile application is listed as “Square, Inc.” in both the Apple App Store¹ and the Google Play Store. Neither of these platforms lists the developer as “Block, Inc.” Below are two screenshots reflecting this fact, full versions of which are attached as Exhibit A:



¹ In the Apple App Store, the “Square, Inc.” name appears briefly on a user’s screen, before switching to a banner that reads “P2P. Bitcoin. Stocks. Banking.” See Exhibit A for a screen shot of these screens.

14. Cash App plans to list the developer of Cash App on the Apple App Store and Google Play Store as “Cash App.” We plan to do this in the same way that TIDAL Music’s developer name is listed as “TIDAL Music AS” on the Apple App Store and “TIDAL” on the Google Play Store, as set forth below, and attached as Exhibit B:



15. We are actively engaged with the Apple App Store and Google Play Store to make this change to the developer name.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: February 4, 2022
Park City, Utah

DocuSigned by:

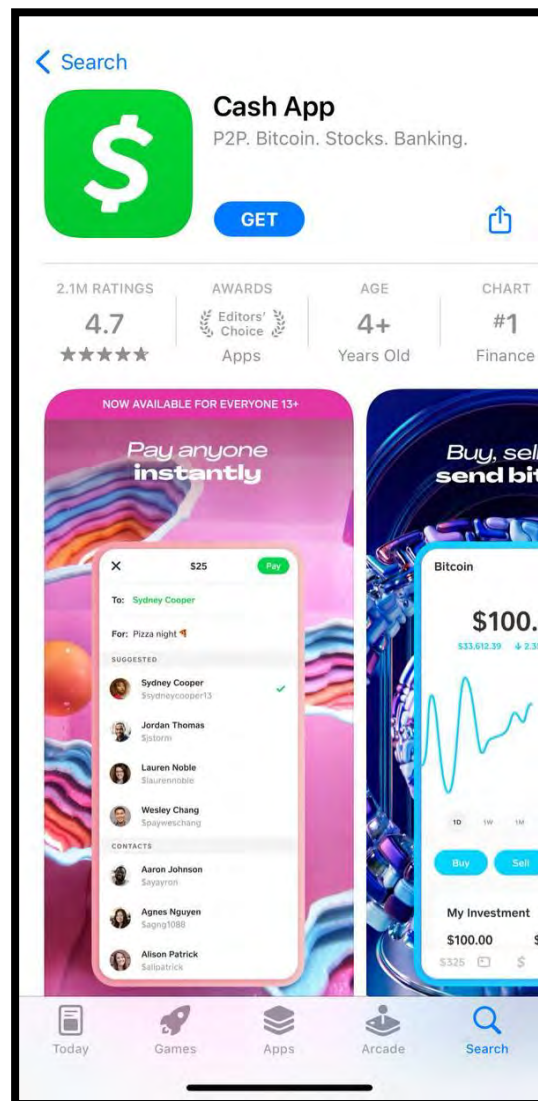
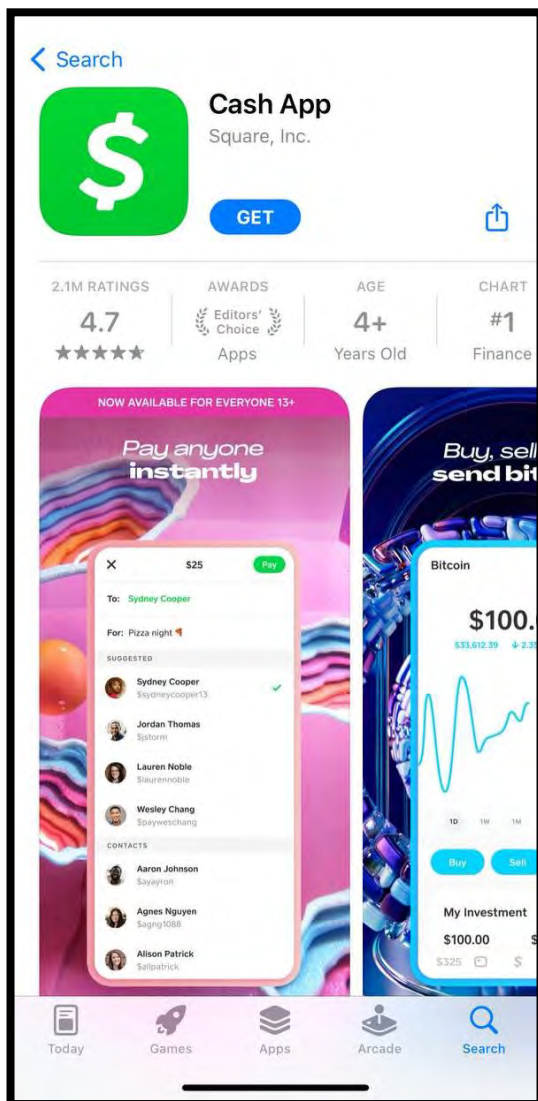
Owen Button Jennings

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Owen Jennings

EXHIBIT A

Cash App Listing on Apple App Store



Cash App Listing on Google Play Store

The screenshot shows the Google Play Store interface for the Cash App. The app is by Square, Inc., in the Finance category, and is rated for Everyone. It has a 4.5-star rating from 999,079 reviews. The app icon is a green square with a white dollar sign. Below the app name, there is a section for 'Contains Ads' with a warning that the user does not have any devices. A link to 'Learn more about Family Library' is provided. An 'Add to Wishlist' button and an 'Install' button are visible. Below the app description, there are four preview images showing app features: 'Pay anyone instantly', 'Fast, easy, and 100% free tax filing', 'Buy, sell, and send bitcoin', and 'Invest for as little as \$25'. To the right of the app listing, there is a 'Similar' section with three recommended apps: Chime – Mobile, Providers: Benefits, and Varo Bank: Mobile. The left sidebar shows navigation options like 'My apps', 'Shop', 'Games', 'Kids', 'Editors' Choice', 'Account', 'Payment methods', 'Play Points', 'My subscriptions', 'Redeem', 'Buy gift card', 'My wishlist', 'My Play activity', and 'Parent Guide'.

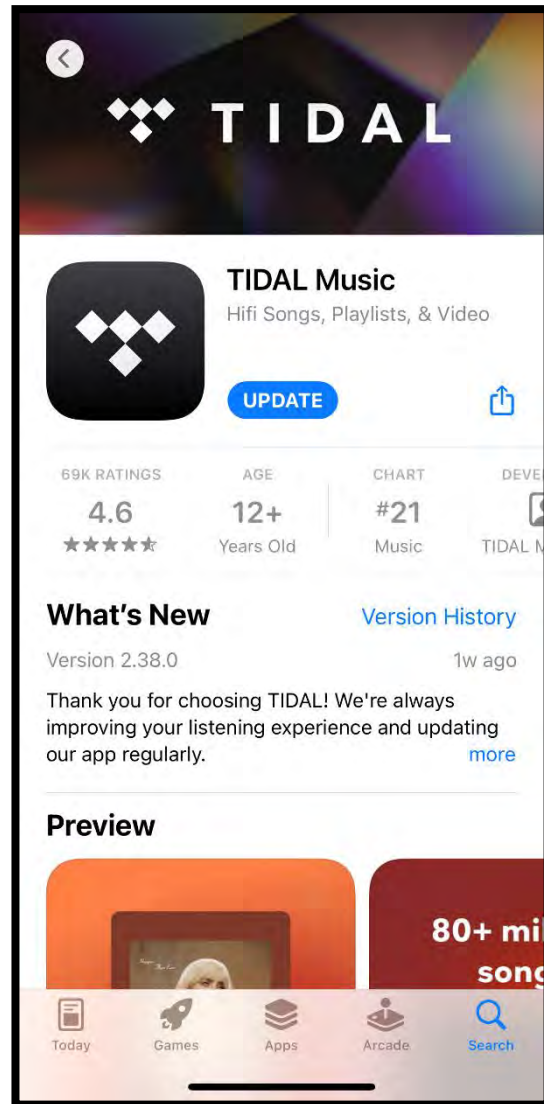
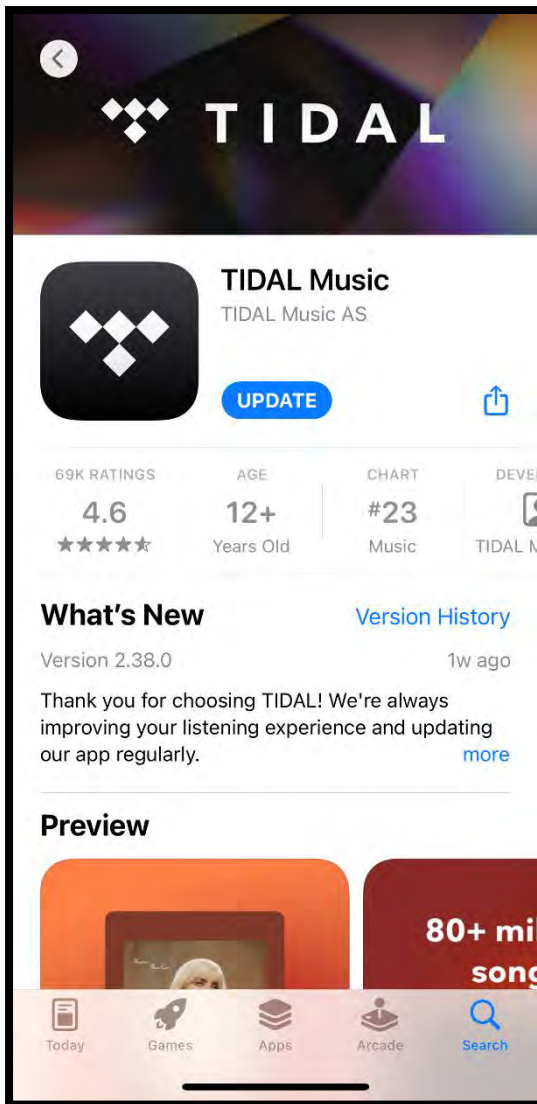
Cash App
Square, Inc. Finance
★★★★★ 999,079
Everyone
Contains Ads
⚠️ You don't have any devices
You can share this with your family. [Learn more about Family Library](#)
Add to Wishlist Install

Similar [See more](#)

- Chime – Mobile**
Chime
Banking with no monthly fees, fee-free overdraft, and early payday.
★★★★★
- Providers: Benefits**
Propel Inc
Manage benefits and debit in one easy app with Providers (formerly Fresh).
★★★★★
- Varo Bank: Mobile**
Varo Bank, N.A.
Mobile bank account with no monthly fees, auto savings & direct deposit.
★★★★★

EXHIBIT B

TIDAL Listing on Apple App Store



TIDAL Listing on Google Play Store

The screenshot shows the Google Play Store interface for the TIDAL Music app. The top navigation bar includes the Google Play logo, a search bar, and navigation links for Entertainment, Apps, Movies & TV, Books, and Devices. The TIDAL Music app is featured prominently with its logo, a 4.5-star rating from 286,440 users, and a 'Teen' age rating. A message indicates that the user does not have any devices. Below the app title, there are promotional banners for 'FOR YOUR MUSIC', '80+ million songs', 'Ad-free, offline play', and 'Innovative audio'. To the right, a 'Similar' section lists other music apps: Music Player - Audify Music Player, Deezer: Music & Deezer Music, and eSound: MP3 Music Player. The left sidebar contains links to Account, Payment methods, Play Points, My subscriptions, Redeem, Buy gift card, My wishlist, My Play activity, and Parent Guide.

tidal - Android Apps on Google

Google Play

Search

Entertainment

Categories

Home

Top charts

New releases

Apps

Movies & TV

Books

Devices

Account

Payment methods

Play Points

My subscriptions

Redeem

Buy gift card

My wishlist

My Play activity

Parent Guide

TIDAL Music

TIDAL Music & Audio

★★★★★ 286,440

Teen

You don't have any devices

You can share this with your family. [Learn more about Family Library](#)

Add to Wishlist

Install

FOR YOUR MUSIC

80+ million songs

Ad-free, offline play

Innovative audio

Similar

See more

Music Player - Audify Music Player

Music Player with stunning design and powerful sound quality

★★★★★

Deezer: Music & Deezer Music

Deezer is a world of music in your pocket - listen anytime, anywhere!

★★★★★

eSound: MP3 Music Player

Spicy Sparks

Create & stream your favorite playlist and trending music with our